IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 5676 of 2005

Between:

G.J. Lilliston, S/o. Late Sri Joseph,
Electrical, R/o. Penumaka, Tedepalli Mandal, Guntur District.

..... PETITIONER

AND

1. Southern Power Distribution Company Limited of Andhra

Prades Rep. by its Chairman & Managing Director, Tirupathi,
Chittoor District.

2 The Divisional Electrical Engineer (Operation), APSPDCL, Red

Cross Building, Kannavarithota, Guntur.

3 The Superintending Engineer, Operation Electrical,

APSPDCL, Brodipet, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or direction preferably a Writ in the nature of Writ of Mandamus, declaring the Proceedings in Memo No. DEE/O/GNT/ADM.JAO/D.No. 11/2005 dt. 5-1-2005 on the file of the 2nd respondent as being illegal, arbitrary, violative of principles of natural justice and consequently direct the 2nd respondent to conduct enquiry by summoning witnesses and records as requested by the Petitioner in his explanation dt. 16-10-2004.

Counsel for the Petitioner:MR.K.RAGHUVEER REDDY

Counsel for the Respondent Nos.1 to 3: MR.SAMINENI KISHORE

The Court at the admission stage made the following O R D E R:

Challenging the proceedings in Memo No. DEE/O/GNT/ADM.JAO/D.NO.11/2005, dated 05.01.2005, on the file of the second respondent, the present writ petition is filed.

As per the directions of this Court in W.P.No. 12520 of 2002, dated 22.110.2002, *de nova* enquiry was conducted and the enquiry officer submitted his report to the disciplinary authority. Thereafter, the petitioner was asked to submit explanation. The disciplinary authority having received the explanation offered by the petitioner issued the impugned Memo dated 05.01.2005 to show cause as to why he shall not be dismissed from the department service in terms of Memo No. DP/DM.V/S/2/384/R.2/90-1, dated 02.04.1991 within fifteen days from the date of receipt of that notice. Questioning the same, the present writ petition is filed.

Learned counsel for the petitioner contended that the disciplinary authority has come to the pre conclusion opinion and issued the impugned Memo, therefore, the impugned Memo is liable to be quashed.

Learned standing counsel appearing for the respondents contended that indicating the proposed punishment in the show cause notice does not mean that it amounts to pre conclusion.

Pursuant to the directions of this Court in W.P.No. 12520 of 2002, dated 22.10.2002, *de novo* enquiry was conducted against the petitioner for producing bogus 9th Class Certificate to the Department and held that the charges

levelled against the petitioner are proved. The enquiry officer submitted his report to the disciplinary authority and basing on the same, the impugned Memo was issued by the second respondent.

There cannot be any dispute that indicating the proposed punishment in the show cause notice does not mean that the disciplinary authority has come to the pre-conclusion and, therefore, the contention of the learned counsel for the petitioner cannot be accepted. The disciplinary authority is the competent authority to take appropriate decision in pursuance of the explanation submitted by the petitioner. It is submitted that though the petitioner submitted explanation on 24.01.2005, no orders have been passed by the respondents. Learned counsel for the petitioner contended that the petitioner would submit the relevant material along with additional explanation so that the matter can be decided by the disciplinary authority. There is no impediment for granting the relief sought for. Therefore, a further period of two weeks time is granted to submit additional explanation along with other relevant material. Thereafter, the respondents shall consider the same in accordance with law and take appropriate decision uninfluenced by any of the observations made in this writ petition.

Accordingly, the writ petition is disposed of. No costs.

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(K.C.BHANU,J)

Dt:23.03.2004

Note:CC in two Days

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To

1. The Chairman & Managing Director, Southern Power Distribution Company Limited of Andhra Prades Tirupathi,

Chittoor District.

2 The Divisional Electrical Engineer (Operation), APSPDCL, Red

Cross Building, Kannavarithota, Guntur.

3 The Superintending Engineer, Operation Electrical,

APSPDCL, Brodipet, Guntur.

4 Two CD copies.